

HOUSE BILL 819

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

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AN ACT

RELATING TO GOVERNMENTAL CONDUCT; LIMITING GIFTS TO CANDIDATES
FOR STATE OFFICE AND STATE OFFICERS AND EMPLOYEES; PROVIDING
FOR PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Gift Act".

Section 2. DEFINITIONS.--As used in the Gift Act:

A. "family member" means a person within the fourth
degree of consanguinity or affinity of the other person;

B. "gift" means any donation or transfer to a state
officer or employee, a candidate for state office or a family
member of a state officer or employee without commensurate
consideration of money, property, service, loan, promise or any
other thing of value, including food, lodging, transportation

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1 and tickets for entertainment or sporting events, but does not
2 include:

3 (1) any activity, including but not limited to
4 the acceptance of a donation, transfer or contribution, or the
5 making of an expenditure or reimbursement, that is authorized
6 by the Campaign Reporting Act or the Federal Election Campaign
7 Act of 1971, as amended;

8 (2) a gift given under circumstances that make
9 it clear that the gift is motivated by a family relationship or
10 close personal relationship rather than the recipient's
11 position as a state officer or employee or candidate for state
12 office;

13 (3) compensation for services rendered or
14 capital invested that is:

15 (a) normal and reasonable in amount;

16 (b) commensurate with the value of the
17 service rendered or the magnitude of the risk taken on the
18 investment;

19 (c) in no way increased or enhanced by
20 reason of the recipient's position as a state officer or
21 employee or candidate for state office; and

22 (d) not otherwise prohibited by law;

23 (4) payment for a sale or lease of tangible or
24 intangible property that is commensurate with the value of the
25 services rendered and is in no way increased or enhanced by

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1 reason of the recipient's position as a state officer or
2 employee or candidate for state office;

3 (5) a commercially reasonable loan made in the
4 ordinary course of the lender's business on terms that are
5 available to all similarly qualified borrowers;

6 (6) reimbursement for out-of-pocket expenses
7 actually incurred in the course of performing a service for the
8 person making the reimbursement;

9 (7) any gift accepted on behalf of and to be
10 used by the state or a political subdivision of the state,
11 including travel, subsistence and related expenses accepted by
12 a state agency in connection with a state officer's or
13 employee's official duties that take place away from the state
14 official's or employee's station of duty; or

15 (8) anything for which fair market value is
16 paid or reimbursed by the state officer or employee or
17 candidate for state office;

18 C. "market value" means the retail cost a person
19 would incur to purchase a gift; and

20 D. "state officer or employee" means any person who
21 has been elected to, appointed to or hired for any state office
22 and who receives compensation in the form of salary or is
23 eligible for per diem or mileage.

24 Section 3. LIMITATION ON GIFTS.--

25 A. A state officer or employee or a candidate for

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1 state office shall not knowingly accept, and a person shall not
2 knowingly donate to a state officer or employee or a candidate
3 for state office, a gift of a market value greater than two
4 hundred fifty dollars (\$250).

5 B. A lobbyist registered with the secretary of
6 state, the lobbyist's employer or a government contractor shall
7 not donate gifts of an aggregate market value greater than one
8 thousand dollars (\$1,000) in a calendar year to any one state
9 officer or employee or to any one candidate for state office.

10 C. A state officer or employee shall not solicit
11 gifts for a charity from a business or corporation regulated by
12 the state agency for which the state officer or employee works
13 and shall not otherwise solicit donations for a charity in such
14 a manner that it appears that the purpose of the donor in
15 making the gift is to influence the state officer or employee
16 in the performance of an official duty.

17 Section 4. PENALTIES.--A person who violates the
18 provisions of the Gift Act is guilty of a petty misdemeanor and
19 upon conviction shall be sentenced in accordance with the
20 provisions of Section 31-19-1 NMSA 1978.